

## REMARKS/ARGUMENTS

### Amendments to the Claims

Claim 1 has been amended to include the limitations of claims 3 and 9. Claims 2, 3, 8, and 9 are canceled as redundant in view of the amendments to claim 1. With the amendments, claims 1, 4-7, and 10-21 remain in the application.

### Rejection under 35 USC §103

All claims stand rejected as unpatentable under 35 USC §103(a) over Santi *et al.*, US 2004/0018598 (“Santi”), alone or further in view of Khosla *et al.*, US 6,461,838 (“Khosla”). The rejection is respectfully traversed.

The present invention relates to a method for production of a polyketide by fermentation, wherein the fermentation is conducted at two different pH's, initially at a first pH conducive to generating the producing culture and then at a second pH conducive to polyketide product stability. Claim 1 has been amended to specify that the first pH is between about 6 and about 7 and that the second pH is between about 5 and about 6.

The Examiner cites Santi as teaching the lowering the pH from pH 7 to pH 6.5 and thus meeting the limitations of claim 1 as originally filed. It is assumed that the Examiner is referring to the experimental description in Example 4, where the only reference in Santi to “pH 6.5” appears. However, a closer reading shows that the passage is not as relevant as the Examiner argues:

Shake flask medium pH is adjusted to pH 7.0 *prior to sterilization* by autoclaving for 90 min at 121°C. Bioreactor fermentation medium is prepared without HEPES buffer and autoclaved for 90 min at 121 °C. *After sterilization and cooling*, the medium was adjusted to pH 6.5.  
(emphasis added).

Properly construed, this passage simply teaches that the medium, in a pre-fermentation preparative step, is sterilized at pH 7.0 and then, after sterilization, has its pH lowered to 6.5, before the commencement of the fermentation process. It is respectfully submitted that this pas-

sage does not teach or suggest *conducting the fermentation* at two different pH's, as claimed by Applicants.

Further, even if one assumed, solely for the sake of argument, that the pH 7.0 to pH 6.5 adjustment of Santi is correctly construable as teaching a two-pH fermentation process, Santi's second pH would be 6.5, outside of the pH range of about 5 to pH about 6 specified in claim 1 as amended for the second pH. Further, there is no teaching in Santi motivating a person of ordinary skill in the art to select a pH lower than 6.5 as the second pH.

As to the rejection of claims 20-21 over Santi in view of Khosla, they are mooted because claim 1 as amended is patentable over Santi, making dependent claims 20 and 21 also patentable.

In view of the foregoing, reconsideration and withdrawal of the rejections over Santi and Santi in view of Khosla is respectfully requested.

#### Miscellaneous

It is believed that no fee is required in connection with this communication. However, in the event a fee is required, the Commissioner is authorized to charge such fee (including but not limited to any fee(s) that might be required under 37 C.F.R. §§1.16, 1.17, or 1.18) against Deposit Account No. 50-2544.

#### Conclusion

In conclusion, it is submitted that this application is in condition for allowance. A prompt and favorable action is earnestly solicited.

Respectfully submitted,

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Yuan Chao  
Yuan Chao  
Reg. No. 32,118  
Telephone (510) 731-5156  
Facsimile (510) 731-5143